

In The Matter Of:
Hodell-Natco Industries, Inc. v.
SAP America, Inc., et al.

Joseph Guagenti
July 20, 2012

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Guagenti.txt
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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

HODELL-NATCO INDUSTRIES,
INC.,

Plaintiff,

vs.

SAP AMERICA, INC., SAP AG,
LSI-LOWERY SYSTEMS, INC.,
THE IBIS GROUP, INC.,

Defendants.

STATE OF ILLINOIS

COUNTY OF COOK

SS.

No. 1:08-cv-02755

The videotaped deposition of JOSEPH GUAGENTI
taken before April M. Metzler, Certified Shorthand
Reporter and Certified Realtime Reporter, at 191 North
Wacker Drive, Suite 3700, Chicago, Illinois, commencing
at 7:03 a.m. on the 20th day of July, A.D., 2012.

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1 Q. Okay. And when did you leave Lowery?

2 A. October 2008 or '9.

3 Q. I can --

4 A. I'm guessing --

5 Q. I can refresh you.

6 The testimony from Marcia Weissman and from
7 Eric Johnson was that they left around September,
8 October 2008?

9 A. Oh, yes.

10 MR. LAMBERT: Objection.

11 BY MR. STAR:

12 Q. Does that refresh your recollection --

13 A. Yes, it does.

14 Q. -- as to when you left LSi?

15 A. Yes, it does.

16 Q. It was October 2008?

17 A. Yes. Because I, at that point in time, had
18 jobs for all the other ones, because we all got fired at
19 the same time. So the next day I had jobs for all of
20 them.

21 Q. What was your job title while you were with
22 LSi?

23 A. I'm not sure what the real job title was,
24 probably something like general manager, slash, lead
25 programmer, slash, software architect, technical service

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1 director. Pick one. But I think it was technical
2 service director, now that I think about it.

3 Q. Can you give me a general overview of what
4 sorts of tasks you performed in your job, while you were
5 with LSi?

6 A. The tasks that I was given were pretty much to
7 run the office for both SAP and FACTS, their other
8 software company for the Chicago office, take care of
9 the day-to-day office stuff.

10 Q. So those were management-style tasks?

11 A. Management style. But then also the lead
12 programmer for the InFlight project and the architect
13 for part of the software development.

14 Q. So you're both on the management side and then
15 you were on the technical --

16 A. Correct.

17 Q. -- development, architect side, correct?

18 A. Correct.

19 Q. Did you supervise and manage a number of
20 employees, while you were with LSi?

21 A. Yes -- well, there was Marcia, Pat, Eric,
22 Diane, Paul, Paul, probably a few others I can't
23 remember now.

24 Q. Okay. They were all below you on the
25 hierarchy at LSi; is that correct?

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1 A. Correct.

2 Q. Did you report directly to anybody at LSi?

3 A. I reported to Jon Woodrum.

4 Q. Do you know if John reported to anybody?

5 A. Jon Woodrum probably reported directly to Dan
6 Lowery.

7 Q. And, say, as of 2005, where was Dale Van
8 Leeuwen in the food chain of LSi? What was his role?

9 A. In the beginning I believe that's when he had
10 a bout with cancer, so he was kind of in and out of the
11 picture in the beginning.

12 Q. What was -- when he was there, though, what
13 was Dale's role?

14 A. He was the designer of the InFlight
15 documentation, how it was supposed to flow, what it is
16 that Hodell was looking for in the application.

17 Q. Is it fair to say that Dale was the guy who
18 developed sort of the work flow processes that InFlight
19 was going to have?

20 A. Yes.

21 Q. He did not do any of the technical
22 architecting of InFlight, correct?

23 A. No, he did not.

24 Q. And Dale did not do any coding of InFlight,
25 correct?

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1 At any point in time after the go-live in
2 March 2007 did you reach any conclusions that the
3 performance problems Hodell was experiencing were caused
4 in any way by the InFlight add-on?

5 A. Yes, they were.

6 Q. What conclusion did you reach in that regard?

7 A. That some of the techniques that we were using
8 really were kind of antiquated and --

9 Q. Why -- why do you say that?

10 A. Well, there was just a different style that we
11 needed to use in order to increase the performance of
12 the add-on itself. The add-on did cause drastic
13 slowdowns in many areas. One of the issues that we were
14 just talking about with the multiple lines on a sales
15 order, that was due in part because of the add-on
16 InFlight. It was causing a slowdown with the system.

17 Q. What other factors, if you know, were
18 contributing to the slowdown of a multiple-line order --
19 line item sales orders?

20 A. The slowdowns were caused by the methods in
21 which we needed to retrieve data from SAP. We needed to
22 go through the -- what they call the COM object, in
23 order to ask SAP questions and then SAP return us those
24 results.

25 And going through the COM object was slow,

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1 communicating with that, it was slow. But there was
2 many different types of techniques that we could have
3 used in order to, you know, definitely make the number
4 of calls that we made to SAP a lot less. I mean, we
5 were calling, like, every millisecond and we could have
6 been calling every minute.

7 Q. Okay. The fact that your InFlight was calling
8 back to the SAP database every millisecond increased the
9 volume of throughput information and slowed it down; is
10 that right?

11 A. That is correct, both on -- both not just from
12 a network standpoint, but also from a physical PC
13 standpoint.

14 Q. You mentioned this COM object. Is the way
15 that that's communicated with through the DIAPI?

16 A. Correct.

17 Q. Did you ever come to understand -- strike
18 that.

19 Were you able to resolve these issues and work
20 around the problems you were experiencing?

21 A. A lot of them we did start to resolve, before
22 the project was pulled, by implementing different
23 techniques in order to retrieve or store the data inside
24 the add-on, so that we would not have to make the calls
25 to SAP to get the information.

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1 A. Dan Lowery, Jon Woodrum, Hodell. Dan -- Dale
2 Van Leeuwen. I -- I don't recall who, I guess.

3 Q. You weren't party it to -- strike that.

4 You weren't part of any contracts --
5 negotiating of contracts or setting up a deal for how
6 many licenses were actually acquired from SAP, were you?

7 A. No, I was not.

8 Q. So you don't have firsthand knowledge of how
9 many licenses were actually acquired, correct?

10 A. No, I do not.

11 Q. Do you know how many -- how many users Hodell
12 was running on the SAP system, when you went out there,
13 after the go-live?

14 A. Truly running? No, I couldn't -- I could not
15 say.

16 Q. Do you know if it was 50?

17 A. It would be a guess on my part. But, yeah, it
18 would be 50 or a hundred users, that were -- again, I
19 don't remember go-live, so I'm thinking more testing of
20 the application, running both the old system and the new
21 system side by side.

22 Q. Speaking of testing, were you involved -- I
23 understand your recollections of actually no go-live, so
24 I'll ask you this question anyway.

25 In your view, were you involved in any testing

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1 of the SAP Business One software with the InFlight and
2 Radio Beacon add-ons for Hodell?

3 A. Yes, I was part of the testing process. I set
4 up a bug tracker with -- inside of LSi's internal
5 network and allowed the implementation consultants, the
6 ICs, such as Marcia and Pat, to test out both
7 functionality and check for bugs. And then they would
8 enter it into the bug tracker, and then from there we
9 would address those issues through the software, make
10 the patch releases.

11 I also believe Keith Winn was also on that, so
12 he was able to call in bugs and then they would be
13 flagged inside the system for either fixing or
14 feature-as-designed or whatever labels they wanted put
15 on.

16 Q. Other than that in-house testing, were you
17 involved in any testing that took place of the SAP
18 solution with InFlight and Radio Beacon that actually
19 occurred at Hodell's location?

20 A. Again, I wrote a lot of the software tools in
21 order to evaluate the end users' PCs. But actually --
22 physically being in there, no, that wasn't -- that
23 wasn't my role.

24 Q. In your view -- just so I've got it clear --
25 these tools that you wrote, they were being used for

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1 testing purposes and not for purposes of, sort of,
2 debugging the system after go-live, correct?

3 A. No, that would be an incorrect statement.

4 The -- the real world is the real world.
5 Things crop up, solar flares, whatever it may be, inside
6 of a network environment. So constantly monitoring that
7 system through these tools would then allow us at later
8 dates, if something had occurred, to be able to check
9 the log files to see what had occurred and then check
10 the application to see if we can fix it or where we had
11 done something wrong.

12 Q. I'll represent to you that Marcia Weissman
13 testified here yesterday and her testimony was to the
14 extent that -- that she, on behalf of LSi, gave advice
15 to Hodell as to how they should load and test the SAP
16 system before go-live.

17 Do you have any reason to disagree that LSi
18 was -- was providing information to Hodell about how to
19 test the system?

20 A. No, I would not deny that.

21 Q. Marcia also testified that there was actually
22 a go-live and that she was personally there in Cleveland
23 on March 8, 2007 at the go-live.

24 Do you have any reason to disagree that that
25 actually occurred?

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1 A. No, I don't.

2 Q. Marcia's testimony was also that she later
3 found out through communications through Kevin Reidl and
4 others that despite her and LSi's advice to Hodell as to
5 how to load test the system that that never, in fact,
6 occurred in the way that she had told them to do it. Do
7 you have any reason to disagree with that testimony?

8 MR. LAMBERT: Objection, form, foundation,
9 misstates testimony.

10 BY THE WITNESS:

11 A. No, I wouldn't disagree with her.

12 Q. You earlier mentioned Ed Neveux. You know
13 Mr. Neveux?

14 A. I know him only via e-mails and phone
15 conversation, yes.

16 Q. You never met him personally?

17 A. No, I have not.

18 Q. What was the earliest contact you had with
19 Mr. Neveux?

20 A. Stop with the dates.

21 (Laughter.)

22 BY THE WITNESS:

23 A. It more than likely was 2000- -- late 2005,
24 2006, when we started having some issues that I had
25 found in the 2004 version of SAP.

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1 April 12th, 2007. Do you see the e-mail that you're
2 referring to?

3 A. April 12th, 2007 at 001500 -- or 0015, yeah.

4 Q. I'm looking at 2:51 p.m.

5 A. Oh, 2:51, okay, one up. All right.

6 Q. You see that?

7 A. Yes.

8 Q. He writes: I honestly don't know what to tell
9 you. Someone had sold to the wrong customer, which is
10 way above any sane view on sweet spot -- 120 users, and
11 obviously they are experiencing severe performance
12 issues. Do you see that?

13 A. Yes, I do.

14 Q. Does -- you didn't know that information
15 before? This is the first time you've seen this
16 document?

17 A. Yes, this is the first time.

18 Q. Does reading that cause you to believe that
19 there were problems in the Business One software itself
20 that were causing issues at Hodell?

21 A. I'd have to go through the rest of the
22 document to see, you know, what -- what it is that they
23 are talking about --

24 MR. HULME: Go ahead.

25 BY THE WITNESS:

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1 being had. We took additional orders under the
2 assumption that your team was following both the advice
3 and caution we were providing; do you see that
4 statement?

5 A. Yes, I do.

6 Q. Any understanding as to what he's talking
7 about there?

8 A. No, I do not.

9 Q. Do you recall any advice or cautions being
10 provided to you by anyone at SAP at any time provider to
11 the go-live date?

12 A. Not off the top of my head I do not recall
13 any.

14 Q. There's an e-mail on the second page of that
15 document about halfway down from Ed Neveux to Ralf
16 Mehnert-Meland dated April 13th, 2007.

17 A. Yes.

18 Q. Do you see that e-mail?

19 A. Yes, I do.

20 Q. He references a phone conversation in which he
21 says, quote, We told him on the phone that the sheer
22 volume of records well exceeded what had been tested by
23 SAP Business One, unquote. You recall ever being
24 provided with that information?

25 A. I'm sorry. It doesn't -- I don't recall that.

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1 Q. Will you look on the page -- down at the
2 bottom right-hand corner -- it says SAP 916.

3 A. 916, okay.

4 Q. There's an e-mail from Ed Neveux to Ralf
5 Mehnert-Meland down at the bottom of that page,
6 March 13th, 2006.

7 A. Oh, yes, I got it.

8 Q. And he says, They gave us what the volume of
9 data that they are using is, and he listed it out.

10 A. Correct.

11 Q. He said, quote, Based upon the numbers that we
12 received from September 2005 testing from Israel the,
13 quote, high-end DB testing was with 60,000 items and
14 16,000 business partners. As you can see, they are
15 using 150,000 items and 27,500 business partners,
16 unquote. Do you see that?

17 A. Yes, I did.

18 Q. Is that the first time you've ever seen that
19 information?

20 A. Yes, this is -- to my knowledge, yes, that is
21 the first time I've seen that.

22 Q. To you is it surprising that SAP had not
23 tested Business One beyond those numbers?

24 A. If it was me, yes, that would be surprising if
25 I didn't, but I don't know what their policies are.

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1 others have been told that this is outside the sweet
2 spot a number of times --

3 MR. HULME: Whoa, whoa, whoa, wait. I'm sorry.
4 Say that again? I don't have it in front of me -- oh,
5 this is from Dan Kraus to Dan Lowery. Okay. Go ahead.

6 BY MR. LAMBERT:

7 Q. You see that statement?

8 A. Yes.

9 Q. At least as far as you're concerned in your
10 personal recollection, does that statement accurately
11 reflect to you -- with respect to you?

12 A. Not to my recollection.

13 Q. And you were part of the development team,
14 were you not?

15 A. Yes, I was.

16 Q. If that information had been communicated,
17 would you have been the person to whom it was
18 communicated? Would you have at least expected to have
19 received it?

20 MR. KELLEHER: Objection, lack of foundation.

21 BY THE WITNESS:

22 A. Yeah. And I can't answer that, because I
23 don't recall being informed. But Jon Woodrum is on --
24 on here and he was like the project manager. I --
25 again, I wasn't -- I had so much other work to do that

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1 feeding me additional information like this would have
2 been counterproductive to what I needed to get done.

3 That's why Marcia, Jon were put into place, so
4 that they can field all of this stuff between Hodell and
5 me, you know, Marcia came in between, and then SAP was
6 more like Jon in between.

7 Q. But as far as you can recall, you personally
8 were never told that Hodell-Natco was outside of the
9 sweet spot for Business One?

10 A. I like the term sweet spot, but I don't
11 recall -- I don't recall that.

12 Q. Do you recall Jon Woodrum or Marcia Weissman
13 telling you that they had been informed that
14 Hodell-Natco was outside of the sweet spot?

15 MR. KELLEHER: Object to the form.

16 BY THE WITNESS:

17 A. Yeah, without seeing it somewhere, I --

18 Q. You don't --

19 A. I can't recall.

20 Q. -- have any recollection --

21 A. No.

22 Q. -- of them ever coming up to you and
23 acknowledging that, do you?

24 A. No, I do not recall.

25 MR. LAMBERT: Can you show Mr. Guagenti

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1 Exhibit 157.

2 BY THE WITNESS:

3 A. (Reviewing exhibit.)

4 Q. If you could review that. I'll represent to
5 you that you're not copied on any of these
6 communications, but just let me know when you're
7 finished.

8 A. Actually, I'm on --

9 Q. Actually, you are on --

10 A. I am on --

11 Q. -- the last one?

12 A. Yes -- or the first one, I should say.

13 Q. First one, right.

14 A. Because it goes backwards.

15 MR. KELLEHER: Exhibit 157?

16 MR. LAMBERT: 157.

17 MR. KELLEHER: Thanks.

18 BY THE WITNESS:

19 A. Okay.

20 Q. Other than the e-mail at the bottom page --
21 ~~bottom half of the second page of Exhibit 157 that~~
22 you're copied on, have you ever seen the other
23 communications reflected in this document?

24 A. No, I haven't.

25 Q. Do you see the summary from Ralf

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1 Mehner-Meland in this e-mail dated April 16th, 2007
2 where he states: Hodell just has too much data. SAP
3 Business One cannot handle it, and there is no fix in
4 sight. I believe we need to find a way to get the
5 customer off SAP Business One.

6 Do you see that?

7 A. Yes.

8 Q. Do you recall having that conclusion being
9 communicated to you at any point, during your
10 involvement with the Hodell project?

11 A. I can't recall during or -- if it was during
12 or after where it was discussed about going to
13 All-In-One, as opposed to being on Business One.

14 Q. I'll represent to you that this e-mail was
15 sent about a month after Hodell went live. Do you
16 recall being made aware of this information at that
17 point in time?

18 A. That I cannot recall.

19 Q. Do you recall when you stopped working on the
20 Hodell-Natco project?

21 A. The day I was fired.

22 Q. That was sometime in mid-2008?

23 A. Yeah.

24 Q. Would you have liked to have known in April of
25 2007 that someone within SAP already concluded that

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1 the bottom of the first page of that document.

2 A. Okay.

3 Q. You're free to read as much of it as you like.

4 A. Okay.

5 (Reviewing exhibit.)

6 Okay.

7 Q. Exhibit 159 is an e-mail that was marked
8 previously -- in a previous deposition. The first page
9 of that document there's an e-mail from Dan Kraus to
10 people within SAP. There's no one at LSi or Hodel
11 copied on that, is there?

12 A. I don't see anybody.

13 Q. And Mr. Kraus states: We very simply need to
14 figure out if there's a solution in A-1 (phonetic) for
15 this customer or if we just refund our license fees.
16 There's no go-forward path here with Business One. Do
17 you see that?

18 A. Yes, I do.

19 Q. Was that information made aware to you at this
20 time or made available to you at this time?

21 A. (Indicating.)

22 Q. The fact that Mr. Kraus had reached the
23 conclusion, There is no go-forward path.

24 A. No, I was not aware of this back in 2007 --

25 Q. Is that information --

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1 A. -- or today.

2 Q. -- you would have liked to have had?

3 MR. KELLEHER: Objection, form.

4 BY THE WITNESS:

5 A. I guess it would have saved me a lot of
6 sleepless nights.

7 Q. Well -- before you give that back -- he also
8 makes the statement: The partner has clearly
9 misrepresented the solution. Do you see that in the
10 last sentence?

11 A. Oh, yes, I did see that.

12 Q. Do you have an opinion as to whether you agree
13 or disagree with that statement?

14 A. I wasn't privy to all that knowledge as to,
15 you know, what was going back and forth either in
16 pre-sale or post-sale comments made by either party.
17 Again, my head was pretty much down, focused on writing
18 applications or writing solutions for Hodell.

19 Q. Okay. Turn to Exhibit 161.

20 A. (Reviewing exhibit.)

21 Okay.

22 Q. Do you see the e-mail from Ed Neveux to John
23 Luigi Bagnoli? It starts on the bottom part of the
24 first page and it goes on to the second page.

25 A. Yes.

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1 Q. Were you -- is this the first time that you're
2 aware that there were performance problems at
3 Hodel-Natco without any add-ons as sold?

4 A. Yes, this would be -- yes.

5 Q. This is new information to you?

6 A. Yes.

7 Q. Does this change any of the opinions you've
8 expressed earlier today?

9 A. No, it does not. It -- it just -- because I
10 didn't actually test this myself, I don't think it would
11 change my response, because that's what I knew at the
12 time.

13 This is just information that would have been
14 nice to know, so that I can test it a different way, but
15 it doesn't change my opinion as to whether or not, you
16 know, that was an issue back then.

17 Q. Because back then you didn't have --

18 A. I wasn't privy.

19 Q. -- just like now, the full array of
20 information you needed to reach those conclusions?

21 A. I think --

22 Q. Is that fair?

23 A. I think that would be fair.

24 Q. Can you turn to Exhibit 162.

25 I'm just going to ask you about Ed Neveux's

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1 e-mail at the top of Exhibit 162, if you could read the
2 whole thing.

3 A. (Reviewing exhibit.)

4 Q. Exhibit 162 is an e-mail that was marked
5 during the deposition of Ed Neveux. And you're not
6 copied on these communications either, are you?

7 A. I don't see my name anywhere.

8 Q. Mr. Neveux makes the statement in an e-mail
9 June 18, 2007, quote: Unless the performance issues
10 with large data sets of this magnitude are handled in
11 Business One 2007 A, there is nothing we can currently
12 recommend to make performance better, as this core issue
13 is a Business One issue in its own base code, unquote.
14 You see that statement?

15 A. Yes.

16 Q. Do you ever recall being made aware of that
17 information?

18 A. No, I do not.

19 Q. Is that information you would have liked to
20 have had in 2007?

21 MR. KELLEHER: Objection.

22 BY THE WITNESS:

23 A. Again, I don't know what I would have done
24 with it.

25 Q. Would it have been information you could have

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1 A. That is true.

2 Q. Okay. And until today you were always
3 operating under the assumption that Business One was
4 appropriate for somebody of Hodell-Natco's size and
5 configuration, correct?

6 A. Yeah, I had no reason to doubt.

7 Q. You now have some question in your mind as to
8 whether Business One was, in fact, more of a problem on
9 this installation than you ever thought?

10 A. I'm sorry. Say that one more time.

11 Q. Yeah.

12 Now that you've seen these e-mails from SAP --

13 A. Correct.

14 Q. -- you now have some question in your mind as
15 to whether perhaps the SAP Business One product itself
16 was the most significant factor in the performance
17 issues you were trying to work around?

18 A. No, I can't -- I can't say that with
19 100 percent accuracy.

20 Q. You just have no conclusion one way or the
21 other?

22 A. No. I think, again, you know, the way my mind
23 thinks, our development of the software, the hardware,
24 even down to the individual user that enters in data,
25 are all just factors to the performance, the success or